



Economic Impact Analysis Virginia Department of Planning and Budget

**22 VAC 40-880 – Child Support Enforcement Program
Department of Social Services
April 5, 2012**

Summary of the Proposed Amendments to Regulation

The State Board of Social Services (Board) proposes to amend its regulations that govern the child support enforcement program to 1) update the definitions section, 2) allow appeal of a social services hearing officer's decision on passport denial to the circuit court, 3) remove specific language that currently governs case prioritization and replace it with a general notice that the department has the authority to prioritize cases based on available information and 4) to repeal 49 of the 72 sections in these regulations.

Result of Analysis

Benefits likely outweigh costs for several proposed changes. Costs likely outweigh benefits for other proposed changes.

Estimated Economic Impact

Current regulations include several definitions for terms that are obsolete or no longer used in the body of the regulations. The Board proposes to eliminate some definitions and add others so that they better help interested parties understand the regulatory text. No affected entity is likely to incur any costs on account of the proposed changes to the definitions. To the extent that obsolete terms might confuse readers, removing these terms will benefit them.

Current regulations explicitly state that the decisions of department hearing officers for appeals of passport denial are final. Department staff reports that the Set-Off Debt Collection Act now allows individuals to appeal the decision of a department hearing officer to the circuit court. Because of this, the Board proposes to remove the statement that the decision of the hearing officer is final and to insert notice that such decisions may be appealed to the circuit court. No

affected entity is likely to incur any costs on account of these proposed changes. Affected entities will benefit from these changes as erroneous information is being removed and replaced with notice that affected entities have the right of appeal.

Current regulations have specific criteria for case prioritization that includes notice to clients that cases where current contact information for a absent or putative father is available will be handled before cases where such information is not known or where the department would be unlikely to be able to enforce a child support order. The Board proposes to remove all specific information on case prioritization and replace it with a general statement that the department has the authority to prioritize cases based on available information. Unless current criteria for prioritization no longer reflect current department practice, there does not appear to be much benefit in removing them from the regulations. Affected entities will be subject to increased uncertainty as to how the department will prioritize cases under the proposed regulatory language. Because, absent some information that current regulatory text is obsolete or wrong, there appears to be little benefit to removing specific criteria from these regulations and because doing so will likely increase uncertainty as to the rules and decrease understanding of those rules, costs likely outweigh benefits for these proposed changes.

The remaining substantive changes proposed by the Board consist of repealing 49 of the 72 sections in current regulations. Board staff reports that the Board proposes to repeal these sections to streamline regulations and because they were advised that Executive Order 14 (EO 14) requires them to remove language that is duplicative of federal or state code. EO 14 doesn't call for the repeal of duplicative sections but it does state that "regulations shall be designed to achieve their intended objective in the most efficient, cost-effective manner." However, it also states that "regulations shall be clearly written and easily understandable by the individuals and entities affected." To the extent that duplicative language is necessary to fully explain an area of regulation, it likely is also necessary to make sure regulations are clearly written and easily understandable.

DPB has identified one section for which repeal is proposed that now contains a rule that is in contradiction with both federal and state law. 22 VAC 40-130 states that "the department may not require custodial parents to pay the costs associated with the provision of child support services unless contesting genetic test results". Since this requirement was promulgated into

regulation, the federal Deficit Reduction Act (2005) required states to pay certain fees for child support enforcement services and gives states several options as to how those fees are collected. In 2007, the General Assembly amended §63.2-1904 to require that these fees be collected directly from custodial parents who meet certain criteria. These statutory changes supersede the rule in these regulations. As the regulatory language listed above is now contradictory and has a large potential to cause confusion for affected entities who read the regulations, removing it will provide the benefit of clarity. For this proposed change, benefits outweigh costs.

It appears that the remaining sections that the Board proposes to repeal are duplicative of various parts of either the Code of Virginia, of federal code or of federal regulation. Repealing these sections will make the regulations shorter and less duplicative but it may not make them more efficient or easier to understand. Having rules that are listed in both code and regulations, while duplicative, also can provide interested individuals the benefit of being able to suss out the rules no matter which source they look to. Current regulations that the Board proposes to repeal also provide a benefit to affected entities in that they consolidate rules from several places into one source and, therefore, save affected entities the time that would need to be spent to search out the various sources from which the rules are derived. These benefits will be lost if these sections of regulations are repealed and affected entities will, instead, incur time costs for having to search various sources in order to be able to find all relevant rules. Board staff reports that DCSE has various resources on their website that provide information to affected entities. In particular, the “Child Support and You” booklet provides a very good overview, in the form of frequently asked questions, to interested individuals. This booklet, however, appears to lack the specificity that is found in current regulations and, so, may not completely substitute for information that will be lost with the repeal of approximately two thirds of these regulations. Repealing regulations that are duplicative of code may provide a benefit to the Board in the future as they would no longer have to amend regulations to reflect future code changes but that benefit likely does not outweigh the costs that will be incurred if these regulations are made less informative.

Businesses and Entities Affected

These proposed regulatory changes will affect DCSE and all individuals that are served by them.

Localities Particularly Affected

No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment

This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

No small business is likely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No small business is likely to incur any costs on account of this regulatory action.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the Board the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the

regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.